

These notes refer to the Pensions (No. 2) Act (Northern Ireland) 2008 (c.13) which received Royal Assent on 15 December 2008

Pensions (No. 2) Act (Northern Ireland) 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 5 - Miscellaneous

Section 107: Intervention by the Regulator where scheme's technical provisions improperly determined

Article 201(4)(c) of the Pensions (Northern Ireland) Order 2005 requires trustees to follow prescribed principles when determining the actuarial methods and assumptions to be used in the calculation of a scheme's technical provisions. These are prescribed in regulation 5(4) of the [Occupational Pension Schemes \(Scheme Funding\) Regulations \(Northern Ireland\) 2005 \(SR 2005/568\)](#). of the principles is that the methods and assumptions must be chosen prudently by the trustees. The requirement for prudence implements obligations under the European occupational pensions directive (Directive [2003/41/EC](#)).

Article 201(4)(c) of the Pensions (Northern Ireland) Order 2005 is not currently included in the circumstances, set out in Article 210(1), in which the Pensions Regulator can exercise its powers (set out in Article 210(2)) in respect of the scheme funding provisions. The Regulator cannot therefore make use of the powers in Article 210(2) if the sole ground of concern is that the actuarial methods or assumptions used in the calculation of the technical provisions do not appear to have been chosen prudently.

The actuarial assumptions used in a valuation of a pension scheme are critical in establishing a scheme's correct funding position and, therefore, an appropriate level of contributions to the scheme. This section ensures that the Regulator can use the powers in Article 210(2) (such as issuing directions on the scheme's actuarial calculations or imposing a schedule of contributions) where the sole ground of concern is that the actuarial methods or assumptions do not appear to be prudent.